

WORKERS' COMPENSATION INDUSTRIAL COUNCIL

JANUARY 7, 2016

Minutes of the meeting of the Workers' Compensation Industrial Council held on Thursday, January 7, 2016, at 1:00 p.m., Offices of the West Virginia Insurance Commissioner, 1124 Smith Street, Room 400, Charleston, West Virginia.

Industrial Council Members Present:

Kent Hartsog, Vice-Chairman

James Dissen

Dan Marshall

Sydney Thornhill-Brown

1. Call to Order

Vice-Chairman, Kent Hartsog, called the meeting to order at 1:00 p.m. [Kent Hartsog, Vice-Chairman, Chaired the meeting in the absence of Bill Dean, Chairman.]

2. Approval of Minutes

Vice-Chairman Hartsog: Did Council members have the opportunity to review the minutes of the November 5, 2015 meeting? Are there any comments?

Dan Marshall: I move for approval, Mr. Chairman.

Vice-Chairman Hartsog: It has been moved. Is there a second?

Sydney Thornhill-Brown: Second.

Vice-Chairman Hartsog: It has been moved and seconded. All in favor, "aye." Any opposed? Motion passed.

3. Office of Judges' Report – Rebecca Roush, Chief Administrative Law Judge

Judge Rebecca Roush: Good afternoon. Happy New Year to you all. It's a pleasure to be here today. This is our year-end report. I did a comparison [of numbers] between 2014 and 2015. There was another drop in the number of incoming protests. It was not as

significant as in previous years. We acknowledged 3,709 protests in 2015, as opposed to 4,090 in 2014, which is 381 fewer protests for a total of 9.30% decline. With regard to our protest acknowledgments, they are slightly better in terms of timeliness with 97.3% acknowledged within 30 days compared to 95.7% in 2014. I will point out that most of those that are not done within 100% percent of the time are due to errors beyond our control, or issues with the carrier or the claims administrator.

Final decision timeliness remains good, and was slightly better for 60 to 90 days – 91.5% were performed within 60 days in 2015 compared to 88.1% in 2014. Overall I think this report paints a good picture of the work being performed by the Office of Judges. I am happy to take any questions that you might have.

Vice-Chairman Hartsog: Any questions from the Council?

James Dissen: It's trending in the right direction. Good job.

Vice-Chairman Hartsog: Good. Thank you, Judge Roush.

Judge Roush: You're welcome.

4. General Public Comments

Vice-Chairman Hartsog: Does anyone from the general public wish to make a comment? No one signed up. [There were no comments from the public.]

5. Old Business

Vice-Chairman Hartsog: We'll move onto old business. Anyone on the Council have anything they'd like to bring up under old business?

6. New Business

Vice-Chairman Hartsog: Does anyone have anything to bring up under new business? Mr. Pauley. . .

Andrew Pauley, General Counsel, OIC: Yes. Just briefly. . .this is an "even" year, which means we need to do the Safety Report. It's that time again. We'll be

looking at potential vendors to do that. We usually alternate. We use someone from WVU, and then we use someone from Marshall University. I think two years ago it was WVU. So, we'll take a look at that and have more specifics for you at the next meeting. Generally the way it works – especially for the new members – we are statutorily charged to do a Safety Report. We will poll insurance carriers and self-insured employers for their safety procedures, and anything else they have to add concerning that. We study it, and then prepare a report. The Industrial Council will review it, and once approved it is submitted to the Legislature for publication.

Vice-Chairman Hartsog: Thank you very much. And that's due in July?

Mr. Pauley: I believe so. The first of July.

Vice-Chairman Hartsog: Does anyone have any questions for Mr. Pauley?

James Dissen: Just curious. When we do this between Marshall and WVU – the reason for those two particular State universities is because they have the major resources versus one of the smaller universities.

Mr. Pauley: We're open to potentially new vendors, but we've had trouble finding people that would be willing to do it under our parameters, and those type of things. We thought we had someone lined up last time. And the cost is an issue also.

Mr. Dissen: You guys do a good job. I was just wondering if you've gotten any pushback from some of the other. . . maybe smaller universities in the State.

Commissioner Michael Riley, OIC: We would be open to anybody that wants to do it. We had somebody two years ago that we had contracted with, and they came back with a big price tag.

Mr. Pauley: The price was almost doubled from what WVU was going to charge. If anyone has someone, please submit any suggestions. We would be happy to talk to them.

Vice-Chairman Hartsog: Could I ask you a question on a completely different topic?

Mr. Pauley: Sure.

Vice-Chairman Hartsog: Do you anticipate any workers' comp related legislation this next time? Any that you know the Commission is planning to propose, or any that is going to be proposed by others that you are aware of?

Mr. Pauley: I don't believe we are planning on proposing any legislation. Obviously, there is a look at taxation and so forth concerning the funds that are directed towards paying off the Old Fund. We anticipate there may be some legislation on that. But with the budget shortfalls and everything. . .who is going to propose it, and where it's going to go is anyone's guess. So, we have no idea on that. There have been some discussions concerning ending/diverting certain taxes regarding the Old Fund deficit, but nothing concrete at this point.

Vice-Chairman Hartsog: Thank you. Any other questions for Mr. Pauley?

Sydney Thornhill-Brown: The Safety Report. . .is that something we will review in one of our meetings, or do we hold a special meeting?

Mr. Pauley: Hopefully, we won't have to do a special meeting. We try to get you a "draft" well in advance. What we'll do is we will get someone hired; we'll send out the survey; we'll get the results back; they will tabulate that for us and come up with a report. Then we provide you a "draft" well in advance to look over. We'll also have them [vendor] come in, if you have questions. We try to allow enough time to prepare a "final draft" that everybody is comfortable with, and review. If we have to hold a special meeting we will, if we can get everybody scheduled. Hopefully, we'll have something going by the next meeting, and then we'll have it pretty much finalized by May; and leave June if we have to do anything extra.

Vice-Chairman Hartsog: Very good. Thank you. Any other questions? Does anyone on the Council want to bring up anything under new business?

Mr. Dissen: I don't have anything.

7. Next Meeting

Our next meeting is scheduled for Thursday, March 10, 2016, at 1:00 p.m.

8. Executive Session

Chairman Hartsog: The next order of business is the Executive Session. The next item on the agenda is related to self-insured employers. These matters involve discussion as specific confidential information regarding a self-insured employer that would be exempted from disclosure under the West Virginia Freedom of Information Act pursuant to West Virginia Code §23-1-4(b). Therefore it is appropriate that the discussion take place in Executive Session under the provisions of West Virginia Code §6-9A-4. If there is any action taken regarding these specific matters for an employer this will be done upon reconvening of the public session. Is there a motion to go into Executive Session?

Mr. Disen made the motion to go into Executive Session. The motion was seconded by Mr. Marshall and passed unanimously.

[The Executive Session began at 1:13 p.m. and ended at 1:15 p.m.]

Vice-Chairman Hartsog: We are now back in regular session. Is there anything else that needs to be discussed today? Does the Insurance Commissioner have anything today?

Commissioner Riley: No, sir.

Vice-Chairman Hartsog: Does anyone on the Council have anything?

9. Adjourn

Vice-Chairman Hartsog: Can we have a motion for adjournment?

Dan Marshall made the motion to adjourn. The motion was seconded by Sydney Thornhill-Brown and passed unanimously.

There being no further business the meeting adjourned at 1:16 p.m.